

DECISION

P. Lieberman
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-191712

DATE: September 11, 1978

MATTER OF: Superior Technical Services

DIGEST:

1. Protest concerning contracting officer's affirmative determination of responsibility will be considered by GAO where solicitation contained definitive responsibility criteria.
2. Offeror may furnish after closing date for submission of proposals information relating to special standards of responsibility provided such action does not affect the price, quantity and quality of the procurement and is not prejudicial to other offerors.
3. Contracting officer is vested with considerable discretion in determining offeror responsibility and where this determination is founded on a reasonable basis, GAO will not evaluate the quality of the evidence.

Superior Technical Services (Superior) protests the award of a contract by the U.S. Army Missile Materiel Readiness Command, Redstone Arsenal, Alabama, under request for proposals (RFP) DAAH03-77-0147 to its competitor, Laird Enterprises (Laird). The contract, for the preparation and production of an estimated 15,000 manuscript pages over a one year period (with Government renewal options for another estimated 15,000 pages per year over an additional two year period) was awarded to Laird based on its low best and final offer. Superior submitted the only other technically acceptable proposal.

The bases of the protest, generally, relate to whether Laird met certain special standards of responsibility of the solicitation requiring:

- (1) the offeror's facility, and designated staff members of the offerors, to have a current security clearance of SECRET or above;
- (2) the offeror to show that technical specialists were available to perform the work and satisfied minimum qualification criteria listed; and,
- (3) the offeror to provide evidence of having produced material similar to that required by the RFP at the rate of at least 1,500 pages per month within the past twelve months.

Although our Office does not normally review protests concerning an affirmative determination of responsibility by a contracting officer, this protest concerns definitive responsibility criteria contained in the solicitation, and therefore falls within a well-recognized exception to our general policy. Haughton Elevator Division, et al., 55 Comp. Gen. 1051 (1976), 76-1 CPD 294; Data Test Corporation, 54 Comp. Gen. 499 (1974), 74-2 CPD 365, aff'd, 54 Comp. Gen. 715 (1975), 75-1 CPD 138; Yardney Electric Corporation, 54 Comp. Gen. 509 (1974), 74-2 CPD 376.

The first two grounds of protest, concerning Laird's alleged failure to meet the special standards of responsibility requiring current security clearances and staff levels, are based on Superior's belief that such criteria were required to be met at the time a proposal was submitted. As a general rule offerors may furnish after the closing date for submission of proposals information relating to responsibility criteria provided such action does not affect the price, quantity and quality of the procurement and is not prejudicial to other offerors. Crane Inspection and Certification Bureau, Inc., B-188192, March 24, 1977, 77-1 CPD 211; B-161211, July 11, 1967; 46 Comp. Gen. 326 (1966). In this instance the successful offeror obtained the requisite security clearances before the contract was awarded and this fact was verified during the pre-award survey.

Similarly, Laird provided with its proposal a list of staff personnel, including requisite qualifications covering the positions stipulated in the RFP, with the exception of one illustrator. Laird's proposal indicated that it had on file a substantial number of resumes for qualified illustrators. The pre-award survey noted that the personnel listed by Laird possessed the requisite qualifications listed in the solicitation. The survey also indicated that, "while all these people are not presently employed at Laird Enterprises, applications on file were examined and are in order." We note that the Army subsequently verified that the Laird personnel actually working on this contract order do meet the criteria of the RFP.

The protester also questions whether Laird satisfied the following special responsibility standard: "The offeror can provide evidence of having produced similar material at the rate of at least 1,500 pages per month within the past twelve-month period." The contracting officer argues that this requirement was satisfied by Laird's statement in its technical proposal that it has produced similar material at a level that "will approach or exceed" the 1,500 page requirement and that, on request, it will make invoices available to the Army for verification. Additionally, the pre-award survey expressly found that "the offeror has performed work in the past which is equal or more complex than the work required by this RFP." The survey report stated that the offeror possessed adequate production capacity, with a capability of 18,500-26,000 pages per year, and that it had satisfactory ability to meet the required production schedule.

With these indicia of Laird's compliance with the special standard concerning prior production before him, the contracting officer determined that Laird was responsible. However, the record was not clear as to whether Laird's invoices were reviewed by the survey team to determine whether the firm, in fact, had produced 1,500 pages per month of similar material within the past 12 months. Therefore, we requested the Army to perform a supplemental survey to determine whether, at the time

of award, Laird met the prior production requirement. A plant visit was made and invoices were checked for the period March 1977 through March 1978. The Army determined that during this time Laird produced printed pages of similar material at monthly levels ranging from 30,000 plus to 89,000 plus.

As stated in Julian A. McDermott Corporation, B-187705, B-188197, April 18, 1977, 77-1 CPD 266:

"This Office has consistently held that it is the duty of the contracting officer to determine the responsibility of an offeror and that he is vested with a considerable degree of discretion in making this determination. We will not substitute our judgment in such cases unless the contracting officer's determination is shown to be without a reasonable basis."

As outlined above, we believe that Laird reasonably was determined to be a responsible firm within the meaning of the solicitation's special responsibility criteria. It is the function of the contracting officer and not this Office to evaluate the relative quality and probative nature of the evidence pertaining to an offeror's responsibility. Yardney Electric Corporation, supra.

Accordingly, the protest is denied.

R. J. Kistler
Deputy Comptroller General
of the United States